

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Gollapelli Ramprasad S/o.Sambaiah and 39 others, all are R/o.Rajupeta village, Narsampeta Mandal, Warangal District, under Section 7(2) of the Act 16 of 1993, against the orders of the Collector and District Magistrate, Warangal (Rural) District in Proceedings Rc.No.C3/409/2017, dated 09.03.2017 - Appeal Dismissed - Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 24

Dated: 26-06-2023

Read the following:-

1. From the Commissioner of Tribal Welfare, TS, Hyderabad, letter Rc.No.2012/1/TRI/TEEC/2016, dated 02.03.2017.
2. Proceedings Rc.No.C3/409/2017, dated 09.03.2017 of the Collector & District Magistrate, Warangal (Rural) District.
3. Appeal Petition filed by Sri G.Ramprasad S/o.Sambaiah and 39 others all are R/o. Rajupeta village, Narsampeta Mandal, Warangal Rural District dated 07.04.2017.
4. Govt. Memo.No.2803/TW.LTR.2/2017, dated 28.07.2017.
5. From the District Collector, Warangal (Rural), letters Rc.No.C1/ 1610/2017, dated 08-09-2017 and C3/1610/ 2017, 29-12-2017.
6. Government letter No.2803/TW.LTR.2/2017, dated 16.12.2017, 09.02.2018, 15.03.2018 and 24.09.2020.
7. From the Director, TCR&TI, TS, Hyderabad, letter Rc.No.18/ TRI/TSV/2018, dated 27.04.2018.

ORDER:-

1. In the reference 2nd read above, the Collector & District Magistrate, Warangal (Rural) District had rejected the claim for issue of "Goudu" ST Caste Certificate of the Appellants Sri Thanda Venkateshwarlu S/o.Jagannadham and 39 others (including the Revision Petitioner Sri Gollapelli Ramprasad S/o.Sambaiah) all are R/o.Rajupeta village, Narsampeta Mandal Warangal (Rural) District obtained fraudulently from the Tahsildar, Narsampet. The gist of the cancellation orders is as under:

- Sri Thejavath Vasunaik, National Secretary, Lambada Hakkula Porata Samithi (LHPS) Telangana State has represented to the Joint Collector, Warangal (Rural) alleging that the Tahsildar, Narampet has issued (40) Goudu ST Community Certificates to the BC-B (Gouda) caste candidates in Rajupet village.
- Revenue Divisional Officer, Narsampet (FAC) enquired into in detail on the above allegations and reported vide Letter No.F/86/2017, dated 19.02.2017 and 20.02.2017 stating that he has verified all the (40) certificates and observed that the Village Revenue Officer, Rajupet had certified that the above persons were residing in Agency village as per 1954-55 Khasra pahani and recommended for issue of ST (Gouda) caste certificates. Then the Mandal Revenue Girdawar has also recommended the same, the Deputy Tahsildar and Tahsildar have simply accepted the same and issue ST-Goudu Caste Certificates to (40) candidates in contradiction of GO Ms.No.2, Scheduled Caste Development (POA.A2) Department, dated 22.01.2015.
- As per Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976, the Goudu has been notified as Scheduled Tribe in the Agency tracts i.e. Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari and Khammam Districts at Sl.No.07. As per the DATA HIGHLIGHTS: THE SCHEDULED TRIBES – Census of India 2001, the agency tracts area comprises of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari and Khammam Districts.

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- The Divisional Bench of the Hon'ble High Court of Andhra Pradesh, Hyderabad in a case of Government of Andhra Pradesh Vs Dasari Subbayamma and another on 19.04.1985 have discussed the distinction of customs and traditions between the Goudu-BC and Goudu (ST) and rejected the order of the single Judge on confirming the Goudu petitioner residing in the agency area as Scheduled Tribe and allowed the Writ Appeal filed by the Government of Andhra Pradesh on the said aspect.
- Since prima-facie the Tahsildar, Narsampet has issued certificates of Goudu-ST certificates to (40) BC community candidates in violation of SCs and STs Orders (Amendment) Act, 1976 and the said BC candidates have obtained them fraudulently, the case was referred to the DLSC.
- The Commissioner of Tribal Welfare, Hyderabad vide Lr.Rc.No.2012/TRI/TEEC/2016, dated 09.02.2017 had given the following clarification:
 - The traditional habitat of Goudu ST community is in the Agency areas of Visakhapatnam, Vizianagaram, Srikakulam etc. of Andhra Pradesh.
 - Goudus are pastoral tribal community mainly found living in the scheduled and hill areas of Araku Valley, Paderu, Munchinput area of Visakhapatnam district. They divided into (17) endogamous sub-tribes viz., (1) Apoto Goud, (2) Behera Goud, (3) Belodia Goud, (4) Donayato Goud, (5) Dumalo Goud, (6) Goppuria Goud, (7) Sallokhanaya Goud, (8) Dudhkonriya Goud, (9) Bartika Goud, (10) Chitti Goud, (11) Mudha Goud, (12) Konda Goud, (13) Gopika Goud, (14) Kosila Goud, (15) Jaria Goud, (16) Lachiyt Goud and (17) Krishna Goud. The patrilineal clans among the Goudu are Kouraypangi, killo, vantala, gollari or hanuman, samardhi, Swabi, Karthari.
 - Main occupation of Goudus (ST) is rearing cattle and collection of tubers and roots available in the forests for their sustenance. They also practice podu cultivation on the hill slopes. They possess conspicuous primitive tribal tracts, distinct culture, shyness of contact and geographically isolation. They speak a corrupt form of Oriya. Marriages by elopement, service, capture, negotiations, levirate (man obliges to marry his brother's widow) are in vogue among the Goudus (ST). They worship Sanku Devudu, Jakari Devatha, Nishani Devatha, Nandi Devatha, Thakurani, Baradouni, Sorumangala etc. The Goudus (ST) have their own traditional community council known as Kula panchayat which maintains the customary laws to settle the disputes and impose fine on offenders.
 - The Goud castes in the list of Backward Classes (BC-B) in the State of Telangana are also known as Gowda, Gamalla, Goundla, Kalalee, Ediga and Settibalija. The traditional occupation of the community is toddy tapping and arrack vending and found living throughout the State. Most of them worship God Shiva. They also propitiate village deities with offering of fowls and animals.
 - There are no matrimonial or commensal relations between the Goudu (ST) living in the Agency Tracts and Gowda/ Goundla/ Gamalla/Kalalli/Ediga/Settibalija living throughout the State. Both of these communities are two distinct groups with diversity of culture and way of living. Further Levirate (obliged to marry his brother's widow) is taboo in the Gowda / Goundla / Gamalla / Kalalee / Ediga/ Settibalija community.

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- On the date of hearing i.e. 03.03.2017, all the (40) respondents (who have obtained Goudu-ST certificates), Complainant, Revenue Divisional Officer, Narsampet, District Educational Officer, Warangal (Rural), Tahsildar, Narsampet, Revenue Inspector and Village Revenue Officer, Rajupet village and also the concerned Head Masters in which schools the respondents and their children studied have appeared before the DLSC.
 - Respondents stated that they belong to Goudu caste, their main profession is toddy tapping and selling only, and that they are residing in Rajupet village of Narsampet Mandal since their birth, their ancestors (fathers, forefathers, grandparents) are residing in Rajupet village and their profession was also toddy tapping. They have no sub-castes in their community, do not have any documents showing that they belong to Goudu (ST), neither themselves nor their relatives/blood relatives have obtained Goudu (ST) certificates. Marriages are being performed as per settlement of their elders. During marriage, the bridegroom will wear mokumustadu (being used while climbing toddy trees) and the bride hold small toddy pot and moving with bridegroom for seven steps witnessing the fire (AGNISAKSHI). The marriages already performed in the village are with the relatives/Goud caste people of erstwhile Warangal district. There is no custom of Levirate (man oblige to marry his brother's widow) in their community. They did not have any relatives in Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari or any districts of Telangana or Andhra Pradesh States except in erstwhile Warangal District. They worship Katamaiah God, Village deities Yellammathalli, Vana Maisammathalli and caste deity Yerramma and propitiating by offering chickens and sheep. The Gothram of all of them are "KOUNDINYA" and they did not have sub-groups. As per G.O.Ms.No.1793, dated 23.09.1970, the Goud caste was not in Backward classes list and before that it's a scheduled tribe. Due to unawareness, their ancestors did not obtain ST certificates. Being residents of agency area of Rajupet village they have obtained Goudu ST certificates as per G.O.Ms.No.2, dated 2.01.2015, in which the Goud caste (ST) in agency area mentioned at Sl.No.7.
 - Sri Banothu Bhadru who attended on behalf of complainant has stated that prior to formation of Telangana State, there are (32) sub-castes in Scheduled Tribes in Andhra Pradesh. As per GO Ms.No.2, dated 22.01.2015, the Goudu (in the agency tracts) is notified. The Rajupet village is agency area but the Gouda caste people in this village are toddy tappers. Goudu people as shown in the said GO are residing in Andhra area viz., Srikakulam, Visakhapatnam and East and West Godavari districts. Their occupation is agriculture, cattle rearing, mulching etc. In support of his claim, he has filed a copy of judgement of Hon'ble High Court of AP Hyderabad in a case of District Collector, Khammam Vs Gundla Venkata Ramana and extract from "Tribes.india.com". The copy of judgement provided is incomplete which describes only the orders of the single judge against which the writ appeal filed, contents of the appeal petition and counter of the respondents, but not the full judgement of the Division Bench.
 - Sri M.Shankar Lingam, Tahsildar (FAC) who has issued the said certificates has stated that he is working as Divisional Administrative Officer, Narsampet since 05.08.2015 and also Tahsildar, Narsampet w.e.f. 15.10.2016. Sri Ravula Sarangapani and (39) others who belong to Goudu caste have applied for issue of Goudu (ST) caste certificate in Mee Seva in September, 2016 as

per GO Ms.No.2, dated 20.01.2015, but he refused to issue. They approached the RDO Narsampet and the RDO has instructed him to issue as per GO Ms.No.2. They have also brought a certificate issued by the Tahsildar, Garla Mandal of Khammam District and on showing it to RDO Narsampet, the RDO Narsampet directed him to issue as per certificate issued by the Tahsildar, Garla Mandal and as per GO Ms.No.2, dated 20.01.2015. The enquiry in the village revealed that their ancestors resided in Rajupet village and having landed properties since 1950, he issued Goudu (ST) certificates to them which was done in a smooth and good faith only.

- Sri Vamshi Chowhan S/o Ramchander Chowan, Mandal Revenue Inspector, Narsampet has stated that he is working as MRI since last 1½ year. Sri Ravula Sarangapani, Thanda Venkateshwarlu and 38 others of Rajupet village of Narsampet Mandal have applied for Goudu (ST) certificates through Mee-seva on 16.09.2016. On local enquiry with the neighbours and elders in the village, it was revealed that they belong to Gouda caste and as such it was refused for certification. As per the instructions of the RDO Narsampeta, as per GO Ms.No.2, dated 20.01.2015 shown to him and as per the certificate issued by the Tahsildar, Garla, he has recorded statements of the village elders and as their ancestors are residing in the village, he has recommended for issue of certificates.
- Smt. Mandala Komala, VRO Narsampet while reiterating the statements of the MRI has deposed before the DLSC.
- After gone through all the reports, statements, records and provisions, the DLSC made the following findings:
 - i) Their occupation is toddy tapping and toddy vending, whereas occupation of Goudu (ST) is rearing cattle and collection of tubers and roots available in the forests, for their sustenance.
 - ii) There is a custom of Levirate (Man oblige to marry his brother's widow in Goudu (ST) community) whereas there is no custom of Levirate in the families of respondents as admitted by them. Hence, the respondents do not belong to Goudu (ST).
 - iii) They have agreed that they have relationships within the erstwhile Warangal District only and not having any relationships with the Goudu (ST) people or others of other districts in Telangana and Andhra Pradesh States.
 - iv) School records issued by the Head Master, ZPPSS Rajupet village, NarsampetMandal reveal their case mentioned as BC-Gouda.
 - v) School admission records of MPPS Rajupet as furnished by the Head Master, (29) children of the certificate holders recorded as BC-Gouda.
 - vi) As per the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976, the Goudu has been notified as Scheduled Tribe in the Agency tracts i.e. Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari and Khammam Districts at Sl.No.07 and the same was confirmed by the Census of India, 2001.
 - vii) Based on the recommendations of the Anantharaman Commission on 20.06.1970, the Government have issued GO Ms.No.1793, Education Department, dated 23.09.1970 listing all the Backward Classes in Andhra Pradesh State. As per the report of the Commission and DalvaSubrahmanyam Commission Reports (2005 to 2011) the Goud (Ediga), Gouda (Gamalla, Kalelee, Gounda

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srisayana (Segidi) is at BC-B Group and Sl.No.4. It was mentioned clearly the traditional occupation of the community as toddy tapping.

- viii) The Division Bench of Hon'ble High Court in a case of Government of Andhra Pradesh VsDasariSubbayamma have specifically observed and held distinction between the customs and traditions of the Gouda-BC and Goudu (ST). The customs and traditions as held by the Hon'ble High Court in the said case are similar to the Respondent as admitted by them.
- ix) The traditional habitat of Respondent is similar as per the Government of Tribal Welfare, Hyderabad vide Lr.Rc.No.2012/TRI /TEEC/2016, dated 09.02.2017.
- x) As the Goud people are (15,45,374) as per the census in the year 1969 in undivided Andhra Pradesh as mentioned by the Anantharaman Commission in the year 1970, they should not keep quiet all these (47) years and ought to have represented for claiming Scheduled Tribe.
- xi) As per Go Ms.No.2, SC Development (POA.A2) Department, dated 22.01.2015, the Goudu (in the agency tracts) at Sl.No.7 notified as Scheduled Tribe. But, the Rajupet village is not comes under the Agency tract in terms of the Constitution (Scheduled Tribes) Order, 1950 and Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976.
- xii) The Respondents have failed to show any documentary evidence that they belong to Goudu (ST).

2. In view of the above findings of the DLSC, the Collector & District Magistrate, Warangal (Rural) exercising powers conferred under Section 5 (1) of TS (SC/ST/BC) Issue of Community Certificate Act 16/1993 r/w Sub-Rule (7) and Rule (9) of TS (SC/ST/BC) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997 communicated vide GO Ms.No.5, SCD (POA.A2) Department, dated 08.08.2014, the Goudu (ST) Certificates issued by the Tahsildar, Narsampet in favour of Sri Thanda Venkateshwarlu S/o Jagannadham and 39 others have been cancelled as they have been proved to be fraudulent.

3. Aggrieved by the above cancellation orders, the Appellant Sri Gollapelli Ramprasad S/o.Sambaiah and 39 others all are R/o.Rajupeta village, Narsampeta Mandal, Warangal (Rural) District have filed the Appeal petition in the reference 3rd read above, under the Act 16 of 1993 before the Government stated that he is the petitioner No.17 and authorized to file on behalf of other petitioners also. The following averments have been made in the Appeal:

- i) The petitioners belong to "Goudu" Tribe which community in Agency Tracts is notified as Scheduled Tribe community at Sl.No.7 of Part I (Andhra Pradesh) of the Schedule II to the Constitution (Scheduled Tribes) Order, 1950, as amended by the Scheduled Castes and Scheduled Tribes (Amendment) Act, 1976. It was in Serial No.4(1) of Part I of the original Presidential Order, Scheduled Caste and Scheduled Tribes Lists (Modification) Order, 1956, issued by the President of India. After the Reorganisation of State and formation of Telangana, the State of Telangana has issued G.O.Ms.No.2, Scheduled Castes Development (POA.A2) Department, dated 22.1.2015 issued under Section 101 of the Andhra Pradesh Reorganisation Act, 2014, adopting the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (hereinafter called the "Act") and the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997 (hereinafter called the "Rules"), with certain modification as per the Annexure thereto. The "Goudu" in Agency Tracts is mentioned as Scheduled Tribe in Serial No.7 of the said Annexure.

- ii) The petitioners are the permanent residents of Rajupeta village, Narsampeta Mandal, Waragnal Rural District, which falls within the Agency Area. It was shown in Schedule Area (Part-B) States Order, 1950 published in Gazette of India No.90, Extraordinary, Part II, Section 3, dated 7.12.1950 at Serial No.11 of the then Hyderabad State, as Rojpot of Narsampeta Taluq, Warangal District.
- iii) The petitioners and their ancestors are illiterate Tribals and their community could not produce even a single government employee or political leader. Therefore, they were not empowered as in the case of the dominant Scheduled Tribes. The petitioners were issued Community and Birth Certificates by the Tahsildar, Narsampet after necessary enquiry on 24.12.2016. However, the first respondent has cancelled the same by the impugned order bearing proceedings No.C3/409/2007, dated 9.3.2017 on a false complaint of Tejavath Vasu Nayak, National Secretary, Nangara Bheri, Lambada Hakkula Porata Samithi, Telangana.
- iv) The impugned order of the first respondent is illegal and liable to be set aside for the reasons stated in the accompanying Memorandum of Appeal and the petitioners crave the leave of this Hon'ble Government to read the same as part and parcel of this affidavit. The Grounds of the appeal as follows:
 - a) The impugned order of the first respondent is illegal, contrary to law and without any enquiry.
 - b) The first respondent did not conduct any enquiry whatsoever and passed the impugned order behind the back of the appellants. The appellants were given any opportunity of appearing before much less being heard, by the first respondent. The first respondent has not furnished the report or other documents, if any, on the basis of which he passed the impugned proceedings to the appellants. Hence, the impugned proceedings are in gross violation of the principles of natural justice and are liable to be set aside on this ground alone.
 - c) The show cause notice bearing Rc.No.C3/409/2017, dated 21.2.2017 was issued by the Chairman, District Level Scrutiny Committee and Joint Collector, Warangal Rural, cited (3) in the impugned order. She did not allow the appellants to engage the counsel or conduct any enquiry or furnish complaint or other material on the basis of which the show cause notice was issued nor given any opportunity of producing any evidence as required under Rule 8 (4) to (6) of the Rules. Hence, the first respondent could not have relied on such alleged minutes dated 3.3.2017, cited (6) in the impugned proceedings, which are ex-facie contrary to Rule 8 (4) to (6) of the Rules.
 - d) The first respondent failed to see that the appellants (referred as respondents in the impugned order) never stated that they belonged to Gouda caste or any other statements as attributed to them in para 4 at page 3 of the impugned order. In fact, no evidence was recorded, except obtaining signatures for their attendance. They have not made any statements as alleged.
 - e) The complainant is a political organization working for the political interests of a particular community by practicing politics of exclusion with the patronage of the political leaders of his community. The first respondent simply acted at his instance and the alleged material referred to in the impugned order must have been supplied by him.
 - f) The first respondent failed to see that the proceedings under the Act and Rules have far reaching civil consequences and therefore, a full-fledged enquiry must be conducted and the parties must be given an opportunity to engage advocate and cross-examine the persons making the statements against them and when the parties are illiterates, must have afforded legal aid and should not have acted in a biased or predetermined mind.

g) The first respondent erred in saying that the appellants are not Scheduled Tribes and Rajupeta is not in agency area, which is contrary to record.

4. The appellants have prayed to suspend the proceedings No.C3/409/2017, dated 9.3.2017 as they have got merits in the Appeal, *prima-facie* and balance of convenience for grant of interim orders.

5. In the reference 4th read above, Government, while admitting the appeal, the stay as prayed for has been rejected as there were no sufficient grounds. The District Collector, Warangal (Rural) has been requested to furnish the para-wise remarks and original connected case records to Government.

6. In the reference 5th read above, the Collector & District Magistrate, Warangal (Rural) has furnished the record along with para-wise remarks with relevant material to Government.

7. In the reference 7th read above, the Director, TCR&TI, Hyderabad has conducted enquiry on 22.03.2018 and submitted report to Government.

8. The Hon'ble High Court in its judgement dated 19.04.1985 in Writ Appeal No.439/1980 between Government of Andhra Pradesh represented by 1) Secretary to Government, Social Welfare Department, Hyderabad; 2) Agent to Government, West Godavari, Eluru (District Collector) & 3) Agency Divisional Officer, Kovvur and 1) Smt. Dasari Subbayamma & 2) Vadisala Ramanna decided as follows (relevance extracted):

(Judgement of the Bench was delivered by Jevan Reddy.J)

"It would immediately be seen that there is a tribe called "Goudu" found only in the agency tracts of this State, and that there is also a caste called "Gowda" (Kalaloo)" (also called Goundla) found throughout the State. Both are not same. One is a tribe, unpoluted by, and outside the Hindu caste system, while the other is a caste (Shudras) within the blighted caste system. They cannot be inter-changed or mixed up. A tribal society is a homogenous group in their way of life, whereas the caste group in their way of life, whereas the caste groups are heterogenous culturally. Tribal societies are more segmentary in nature; they view their societies merely as component autonomous groups, similar in function and status, whereas the caste societies are more organic in that each caste is a part of an organic whole; its member provide necessary specialized functions for the whole. Again, while the tribesmen consider their society held together by kinship bonds and do not insist on hierarchical ordering, a caste ('Jati') society maintains non-kinship relations with other castes in the society, as the relations within which are arranged in an order of dominance and dependence; (see David G.Mandelbaum; Society of India – Vol.I).

It would be evident from a reading of Article 342 of the Constitution that the President is empowered only to "specify the tribes or tribal communities" which shall be deemed to be scheduled tribes for the purpose of the Constitution in relation to that State or Union Territory, as the case may be. It follows that only a tribe or tribal community, or a group therein, can be so specified. The Presidential Order issued thereunder does not purport to do more. It only specified certain tribes, tribal communities, or groups within tribes, as scheduled tribes in certain localities or States, as the case may be, for the purpose of the Constitution. Before any group, community, or tribe is specified in the Schedule, it must be a tribe, tribal community or a group within the tribe or tribal community, as the case may be. The power conferred by Article 342 of the Constitution does not extend to converting the non-tribals into tribals even for the purpose of the Constitution. The power is merely to specify not to create or convert. In other words, a person or a member of a backward class who does not belong to a tribe, tribal community or a group within the tribe or tribal community, cannot be specified by the President as a member of a scheduled tribe for the purpose of the Constitution nor does the President purport to do so.

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Applying the above principles to the facts of this case, it must be held that the 1st respondent who, according to the certificate produced by herself, "belongs to Kalali (Gowda) caste which is included in the list of Backward Classes" cannot become or be treated as, or be transformed into a member of a scheduled tribe called "Goudu". Till 1950 or for that matter, till 1956 she was admittedly not a member of Scheduled Tribe called "Goudu", she was only a member of a backward caste called Gowda (Kalalee) if so, even thereafter, she continues to be a Gowda. The Kalali (Gowda) caste, to which she belongs, is entirely different and distinct from the Goudu tribe found in the Agency Tracts of this State. We are unable to agree with the learned single judge that all the members of Kalali (Gowda) caste, who belong to the "Shudra" (caste in the Hindu caste system), automatically go out of their caste and the caste system altogether, and become members of a scheduled tribe merely by virtue of their residence in an agency tract. Suppose, tomorrow, the 1st respondent shifts her residence to a place outside the Agency tracts, whether she would continue to be a member of a scheduled tribe, or will she revert back to her original caste and the caste system? Belonging to a tribe is a matter of birth; not of choice – nor a matter of law. The Presidential Order does not purport to do all this, and there are no reasons to attribute such a meaning or intent to it. Indeed, placing such a construction upon the Presidential Order would make it *ultra vires* the powers of the President under Article 342. We are of the opinion that the learned single judge was not right in treating the Gowda caste mentioned in the list of backward classes, and the Goudu tribe in Agency tracts, as one and the same. Not only there are Goudus in the Agency tracts, as one and the same. Not only there are Goudus in the Agency tracts, mentioned under item 7 of the Presidential Order, but there is also a separate tribal group called Goud mentioned under item 18 of the Presidential Order. Both of them are tribes, and not castes. In this context, it is well to remember that the Hindu Caste System has, fortunately, not percolated into these tribes or tribal communities. These tribes are entirely outside the caste system, even distinct and apart from the scheduled castes which too are outside the four-tiered caste system.

We shall now briefly refer to certain characteristics, customs and practices which mark off the Goudus (tribesmen) from Gowdas, who are plains people. The material set out hereinafter is mainly drawn from the celebrated treatises "Castes and Tribes of Southern India" by E.Thurston, Vol.II (pp.253 (Gmala); 269(Gouda), and 273 (Goudo) and "The castes and Tribes of H.E.H. The Nizam's Dominions" by Syed SirajulHasan, following characteristics, customs and practices of the Goudu Tribe and Gowda Caste:

Gouds are mainly pastoral tribe found in scheduled areas of Srikakulam, Vizianagaram and Visakhapatnam districts. (According to 1971 census, their population is 6,256). They are also found in the adjoining parts of Orissa State, their main occupation is breeding of cattle, they are conspicuous by their primitive traits, distinct culture, geographical isolation, extreme backwardness and shyness of contact. Besides rearing cattle, they collect tubers and roots and thus partly subsist by flora and fauna of the nature, they acquire their mates by capture, an institution which was prevalent in ancient times. They speak a corrupt form of Oriya, they are divided into totemic clans, they worship 'SankuDevudu', 'JakariDevata', 'NishaniDevata' etc. They live in forests, isolated from the main stream of the society. They are extremely backward, surviving at a mere subsistence level; besides breeding cattle, they also undertake slash and burn cultivation on hill slopes, men wear traditional style, the percentage of literacy among them is very low, they are very shy of contacting other, and whenever non-tribals approach them, they recede into forests.

As against the above, the Goudas (a caste included in the backward classes, who are also known as 'Gammala', Gamandla', 'Goundla', 'Kalalee', and 'Ediga') are mainly toddy-tappers and vendors of arrack, found throughout the

former State of Hyderabad, and throughout the State of Andhra Pradesh. They are included as backward classes under Group 'B', at serial No. 4 in the approved list of socially and educationally backward classes notified by the Government of Andhra Pradesh in G.O.Ms.No.1793, dated 23-09-1970.

There are no matrimonial or communal relations between the Goudus living in the Agency tracts, and the Gowdas/Goundlas/Kalalis living in the paints throughout the State. They are two distinct groups with diversity of culture and way of living.

A judgment of another learned single judge of this Court in G. Venkateswara Rao v. District Collector, Khammam is brought to our notice, where the learned Judge held that G.O.Ms. No. 447 dated 10-7-1979 is beyond the powers of the Government. The learned Judge was of the opinion that "It is not permissible to draw the distinction that the gouda community whose occupation is toddy-tapping or the tribes who are cattle breeders should come within the particular enumerated item, or not.....the petitioner who belongs to the Goud community in respect of agency tracts is entitled to a certificate showing his community as a scheduled tribe within the meaning of item 7 of the second schedule to Act 108 of 1976; (amendment to the Presidential Order)....." The learned judge purported to follow the Bench decision of this Court in Principal, Guntur Medical College v. Panduranga Rao AIR 1983 Andhra Pradesh 339; but, we find that the said Bench decision merely stated that it is not permissible for the Court to embark upon an enquiry about the possible sub-tribes and synonyms of a tribe not mentioned in the Presidential order and the subsequent notification of the lists by the Parliament will be defeated if the parties are permitted to adduce evidence to show that unenumerated communities are also included in the list. We think that the judgment of the learned single judge mixes up the two distinct concepts and entitled, viz., "tribe" and "caste" - 'Goudus' and 'Gowdas' - and treats them as inter-changeable which, in our opinion, is not correct.

We are also of the opinion that the view taken in the judgment under appeal opens up a broad vista for mischief. Since the Presidential notification does not say that the residence within the Agency tracts should be with reference to a particular date or year, it would be open to all or any of the members of Gowda/Goundla/Kalali community all over the State to set up a small residence, or purchase a small piece of land anywhere in the Agency tract and then claim that they are all members of 'Goudu' scheduled tribe. It would give rise to several anomalous situations. Of the two brothers, one would be a member of the Scheduled tribe if he resides in an Agency tract and the other not a member of scheduled tribe (but a member of backward class) because he resides outside an Agent tract. We are sure, the President when he issued the notification, or the Parliament when it amended the notification, could never have contemplated permitting such an eventuality. It is well known that members of 'Gowda' caste are spread all over the State; that, their main occupation is toddy tapping; that, they have got toddy tappers' societies spread all over the State and that, some of them are very rich and big contractors taking contracts worth millions of rupees. It would be curious if such persons are converted into scheduled tribes overnight by simply setting up a residence anywhere in the Agency Tracts in the State.

For the above reasons, we are of the opinion that the 1st respondent was, according to her own certificate, belongs to Gowda caste (which is enumerated as one of the backward classes by the Government of Andhra Pradesh is not, and cannot become, nor can she treated as a member of the scheduled tribe 'Goudu' though set is a residential village within agency tract.

The writ appeal is accordingly allowed and the judgment of the learned Judge is set aside. There shall be no order as to costs. Advocate's fee: Rs.250/-.

9. In the reference 6th read above, notices were issued to the appellants and all other concerned to attend for hearing on 29.09.2020 at 3.00 PM. Appellant and their counsel called absent. Appeal previously called on 18.11.2017 – Adjourned. On 30.12.2017 – Tahsildar, Nekkonda attended on behalf of District Collector, Warangal and submitted report. Petitioner and his counsel attended and prayed for adjournment. Adjourned. Also directed all the Revision Petitioners to attend before TCR&TI on 4.1.2018 for genealogical and anthropological study. On 03.03.2018 – Counsel for Revision Petitioners present. Adjourned to 28.04.2018 with direction to petitioners to attend before TCR&TI on 22 and 23rd for genealogical and anthropological study. On 28.04.2018 – Petitioners and their counsel called absent. Adjourned to 30.06.2018 for final hearing. Petitioners reported not attended for enquiry before TCR&TI, hence directed to appear before TCR&TI. On 30.06.2018 - Counsel present and prayed for adjournment. Adjourned to 4.8.2018 with direction to supply copy of report to counsel for petitioners. On 04.08.2018 – Adjourned.

10. Government after careful examination of the appeal filed by Sri Gollapelli Ramprasad and 39 others of Rajupeta village in Narsampeta Mandal of the Warangal District and with reference to the evidences available on record, findings of the Tribal Cultural Research and Training Institute, TS, Hyderabad and also placing reliance on the judgement of the Hon'ble High Court of Andhra Pradesh at Hyderabad in Writ Appeal No.439 of 1980, dated 19.4.1985. The caste of the Appellants is proved as belonging to Goud BC-B but not Goudu-ST community beyond any shadow of doubt.

11. Further, the Government have given sufficient opportunity and time to the Appellants to defend their case before the District Collector, Warangal District and also before the Government, but they have failed to prove their case. Hence, there is no reason to keep the case pending any further.

12. Therefore, the appeal filed by Sri Gollapelli Ramprasad and 39 others of Rajupeta village in Narsampeta Mandal of the Warangal District, is hereby DISMISSED upholding orders of the Collector & District Magistrate, Warangal District in Proceedings No.C3/409/2007, dated 9.3.2017.

13. The Collector and District Magistrate, Warangal District shall take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

The Collector and District Magistrate, Warangal District (By RPAD)
Sri Gollapelli Ramprasad, S/o.Sambaiah,
Sri Thanda Venkateshwarlu, S/o.Jagannadham,
Sri Manda Swamy, S/o.Chandraiah,
Sri Gollapelli Suresh, S/o.Sarangam,
Sri Thanda Venkateshwalu, S/o.Pattabi Ramulu,
Sri Ravula Sarangapani, S/o.Ramaiah,
Sri Kothi Swamy, S/o.Mallaiah,
Sri Thanda Srinivas, S/o.Veeraiah,
Sri Dupati Srinivas, S/o.Sammaiah,
Sri Thanda Prathap, S/o.Janardhan,
Sri Thanda Srinivas, S/o.Venkateshwarlu,
Sri Ravula Kranthi, S/o.Sarangam,
Sri Thanda Raja Goudu, S/o.Swamy,
Sri Thanda Sridhar, S/o.Swamy,
Sri Ravulu Sandeep, S/o.Ilaiah,
Sri Thanda Sridhar S/o.Sambaiah,
Sri Kothi Chalam, S/o.Mallaiah,

(Contd...11)

Sri Kothi Bhaskar, S/o.Mallaiah,
Sri Kothi Venkateshwarlu, S/o.Venkatrajam,
Sri Manda Ramesh, S/o.Swamy,
Sri Thadaka Ranjith, S/o.Hanuman,
Sri Thadaka Srinivas, S/o.Ramaiah,
Sri Chinthu Babu, S/o.Komuramma,
Sri Dupati Srinivasa, S/o.Narsaiah,
Sri Thanda Satheesh, S/o.Janardhan,
Sri Manda Mallaiah, S/o.Bhadraiah.
Sri Thnada Srinu, S/o.Janardhan,
Sri Gollapally Srinu, S/o.Sarangam,
Sri Thanda Sudhakar, S/o.Pattabhi Ramulu,
Sri Dupati Rajesh, S/o.Sudarshan,
Sri Thanda Srinu, S/o.Vishwanatham,
Sri Thanda Mogili, S/o.Venkataiah,
Sri Gollapelli Rajeshwar, S/o.Sarvaiah,
Sri Thadaka Sathish, S/o.Venkataiah,
Sri Thadaka Bhikshapathi, S/o.Sambaiah,
Sri Thanda Ravinadh, S/o.Veeraiah,
Sri Ravula Venkateshwarlu, S/o.Ailaiah,
Sri Kothi Cheenaiah, S/o.Mallaiah,
Sri Thanda Bikshapathi, S/o.Jagannadham,
Sri Thanda Rajender, S/o.Pattabhi Ramulu,

All are R/o.Rajupeta village, Narsampeta Mandal,
Warangal District.

(Through the Tahsildar Narsampeta Mandal) (By RPAD)

Copy to:-

Sri M.V.Durga Prasad, Advocate, Plot No.332-B, Phase-III,
Road No.82, (Extn. of Road No.1, Film Nagar), Adjacent to Rama Naidu Studios,
Jubilee Hills, Hyderabad -500096. (By RPAD)
The Tahsildar, Narsampet Mandal, Hyderabad
(serve the copy to the appellants) (By RPAD)
The Director, TCR &TI, TS Hyderabad.
The P.S. to Minister for ST Welfare.
The PS to Secretary to Govt. (TW).
The PA to Special Secretary to Govt.(TW).
SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER.